House Calendar No. 68

101ST CONGRESS *1st Session*	HOUSE OF REPRESENTATIVES	REPORT 101-293

IN THE MATTER OF REPRESENTATIVE JIM BATES

REPORT

OF THE

COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT U.S. HOUSE OF REPRESENTATIVES

OCTOBER 18, 1989.—Referred to the House Calendar and ordered to be printed

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LETTER OF TRANSMITTAL

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT,
Washington, DC, October 18, 1989.

Hon. THOMAS S. FOLEY,
Speaker of the House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: By direction of the Committee on Standards of Official Conduct, I herewith submit the enclosed report, "In the Matter of Representative Jim Bates."

Respectfully,

JULIAN C. DIXON,
Chairman.

Enclosure

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Mr. DIXON, of the Committee on Standards of Official Conduct, submitted the following

REPORT

I. INTRODUCTION

The Committee on Standards of Official Conduct (the "Committee") is authorized under the Rules of the House of Representatives (House Rule X, clause 4(e)(2)(B)), to investigate any alleged violation by a Member, officer, or employee of the House, of the Code of Official Conduct (House Rule XLIII). In addition, alleged violations of any law, rule, regulation, or other standard applicable to the conduct of such Member, officer, or employee, in the performance of his or her duties, or the discharge of his or her responsibilities are within the Committee's jurisdiction.

On October 7, 1988, the Committee received complaints from two former employees of Representative Jim Bates, alleging that they had been sexually harassed by the congressman and that congressional staff had been used to perform campaign-related activities. *See,* Appendices 1 and 2. The complaints, which were forwarded to the Committee separately by Representatives Lynn Martin and William M. Thomas, were deemed to be in proper form under House Rule X and Committee Rule 9.

On October 18, 1988, the Chairman and Ranking Minority Member notified each of the complainants that their complaints would be placed on the agenda for the next scheduled meeting of the Committee, as required by Committee Rule 10(a)(4)(A). *See,* Exhibit A. The next meeting was held on January 4, 1989, at which time the Committee put the matters over for later consideration.

The following is a summary of the allegations raised against Representative Bates.

A. COMPLAINT BY DORENA BERTUSSI

Ms. Dorena Bertussi's charges against Representative Bates are contained in sworn letters to Representatives Martin and Thomas. She stated that she was employed in Representative Bates' congressional office from October 1987 to March 1988. She cited the following incidents as having occurred:

Representative Bates, with other employees observing, took her leg between his legs and moved up and down, while also attempting to fondle her hands;

A newly-hired female employee asked Ms. Bertussi how to respond to Representative Bates' requests for hugs, as well as his questions about whether the employee missed him when he was gone;

Representative Bates made antagonistic comments to Ms. Bertussi about another female employee, then asked her questions about her apartment and bed;

Representative Bates approached Ms. Bertussi in an aggressive manner and made comments to her which she felt were threatening; and

Ms. Bertussi and other employees had to perform campaign activities during office hours, including calling political action committees regarding a fundraiser being held by Representative Bates.

Ms. Bertussi's complaint characterized the foregoing as examples of a "few instances," and indicated she would be willing to provide more detailed information if called to testify. She said she sought the counsel of Representative Bates' Legislative Director regarding the "sexual harassment," but received no satisfaction and left the congressman's employ.

B. COMPLAINT BY KAREN E. DRYDEN

Ms. Karen E. Dryden's charges against Representative Bates are contained in sworn letters to Representatives Martin and Thomas. She stated that she was employed in Representative Bates' congressional office from April 1987 to April 1988. She alleged the following as having occurred:

While driving Ms. Dryden from a political fundraiser to the Washington, D.C. subway, at a time when he had been drinking, Representative Bates told her she was attractive and put his hand on her knee;

In her first month with the congressman, while working in an area near his personal office, Representative Bates frequently stopped by Ms. Dryden's desk and told her she was pretty or touched her shoulders, sometimes massaging her shoulders;

From May 1987 on, "nearly every time" she went into Representatives Bates' private office alone he would hug Ms. Dryden; he also grabbed her buttocks; and

Ms. Dryden used the congressional office to organize a May 1987 campaign fundraiser for Representative Bates, at which time all employees were expected to make calls seeking contributions; similar calls were made on behalf of an employee of

the congressman in his district office who was running for San Diego City Council.

During the latter part of 1988 and the early part of 1989, Committee staff analyzed the issues raised in the two complaints. This included review of relevant standards of conduct, as well as whether the sexual harassment complained of was a matter within the jurisdiction of the Office of Fair Employment Practices established by House Resolution 558 (100th Congress). Committee staff also interviewed the complainants and certain other individuals believed or viewed as possibly having information relevant to the complaints. The process described above was concluded in early July 1989.

On the basis of information obtained as a result of staff interviews and legal analysis, the Committee determined that a Preliminary Inquiry was appropriate. A Resolution (Exhibit B) initiating such investigation was adopted on August 3, 1989, and Representative Bates was notified of that Committee action (Exhibit C).

II. Highlights

The Committee obtained information that Representative Bates (both verbally and physically) interacted with the complainants in such a way as to support a conclusion that they had been subjected to sexual harassment in violation of House Rule XLIII, clause 9, a standard of conduct over which the Committee has explicit jurisdiction. *See*, House Rule X, clause 4. Furthermore, information obtained also indicates that Representative Bates directed campaign activity undertaken in his congressional office. This too is a matter over which the Committee has clear jursidiction under House Rule X, clause 4.

In order to expedite the matter, Representative Bates waived his rights under the Committee's *Rules of Procedure* with respect to the issuance of a Statement of Alleged Violation and disciplinary hearing. *See*, Appendix 3.

The Committee has sent to Representative Bates a formal and public letter reproving him for his actions. Such correspondence is included as part of this Report. *See*, Exhibit E.

III. Results of Investigation

The Preliminary inquiry focused on two matters: Representative Jim Bates' personal conduct *vis-a-vis* two staff members (i.e., sexual harassment) and the undertaking of campaign activity in his congressional office.

Committee staff interviewed the two complainants and other individuals believed or said to have information relevant to the allegations raised in the complaints. The following summarizes some of the information obtained.

A. Results of Selected Interviews

1. Ms. Dorena Bertussi

On May 10, 1989, Committee staff interviewed Dorena Bertussi. Ms. Bertussi, who was accompained by her attorney, stated she worked as a legislative assistant in Representative Bates' office

from October 1987 through March 1988. The highlights of Ms. Bertussi's interview are presented below.

Ms. Bertussi asserted that Representative Bates straddled her leg between his legs in the staff section of the congressman's office. She indicated that the congressman's repeated overtures were offensive and uninvited. For example, while standing in her presence, he commented to a third party how good her breasts looked.

Following one incident, Ms. Bertussi said she struck Representative Bates with a sock. She stated she subsequently began to fear for her safety, especially after Representative Bates informed her that he wanted to hit another female staff member in the face until that individual's mouth trickled with blood. According to Ms. Bertussi, she informed the congressman's Legislative Director about the problems she was having. She stated that she left her job because of sexual harassment. She did not feel, however, that her job advancement was hindered because of these episodes.

Ms. Bertussi also asserted that she was asked to call various political action committees (PACs) for one of Representative Bates' fundraisers. Specifically, she asked them if PAC officials had received an invitation, whether they were coming, and whether they would be making a contribution to the congressman's campaign. These calls were made during office time on office phones at the direction of Representative Bates' administrative assistant acting pursuant to the congressman's desires. Ms. Bertussi also alleged that her attendance at the fundraiser amounted to an implied condition of her job.

Ms. Bertussi stated that she filed her complaint in concert with Ms. Karen Dryden in order to give and receive mutual support. She noted that there were several instances throughout her tenure in Representative Bates' office in which she discussed the alleged incidents with Ms. Dryden and others.

2. Ms. Karen Dryden

Ms. Karen Dryden, in the presence of her attorney, was interviewed by Committee staff on May 18, 1989. She stated that she had worked in Representative Bates' office from April of 1987 through April of 1988. Ms. Dryden's interview is summarized below.

The first alleged incident of sexual harassment occurred when Representative Bates gave Ms. Dryden a ride to the Washington, D.C. subway. According to Ms. Dryden, Representative Bates was inebriated after attending a Gary Hart fundraiser when he reached over and put his hand on her knee. She asked him to remove his hand, which he did. Several times near the beginning of her employment Representative Bates would frequently touch and massage her shoulders while she sat at her desk. She did her best to maneuver away from him when this occurred.

Ms. Dryden also said that the Member was in the habit of asking for hugs, most of which were light and brief in nature. During one hug, however, he grabbed her buttocks. Ms. Dryden stated that she discussed her problems with the congressman's Legislative Director.

Ms. Dryden indicated that she was of the opinion that she was fired because of her refusal to submit to the Member's advances,

and because she was a close friend of Dorena Bertussi. Weeks earlier, Ms. Bertussi had left the office allegedly because of similar experiences. Ms. Dryden concluded by stating that she never saw or heard Representative Bates make improper advances toward anyone else, nor did she believe that anyone saw or heard the actions taken toward her.

Ms. Dryden indicated that she was initially hired to work on a fundraiser for Representative Bates. She worked in Representative Bates's Longworth Building office, used the office phone, as well as other office equipment (e.g., copier). She said she was generally supervised by the congressman. When making calls, she said she was specifically instructed by Representative Bates not to mention that she was calling from his congressional office. During this period, her salary was disbursed from Representative Bates' campaign account—that is, she was not on the official congressional payroll but was, instead, a campaign committee employee doing political work in the congressional office.

After her first month in the office, and after the fundraiser was over, Ms. Dryden's employment status was changed from campaign worker to legislative assistant on the congressional staff. Later in the year she remembered the congressman's Legislative Director giving her a list of PACs to call, which she did. She did not remember seeing the Legislative Director make any such calls. She acknowledged engaging in group discussions with other office workers regarding these incidents.

3. Unidentified Staff Member

At the request of Committee staff, an employee on the congressman's clerk-hire staff, submitted to an interview on June 28, 1989.[1] The individual was not accompanied by an attorney.

When questioned about the Dorena Bertussi "leg-straddling" incident, the individual recalled that there was, in fact, contact initiated by the Member that the individual remembered as inappropriate. The individual did not, however, remember the incident as Ms. Bertussi described it (i.e., as leg straddling). Instead, it was described as the congressman having approached Ms. Bertussi closely, and her being upset afterwards. The individual did not recall receiving any direct complaints about the congressman's sexual advances.

The individual vaguely remembered an incident in which the congressman may have commented about someone's breasts. The individual could not accurately recall when it was, or whom it involved. The individual's office experiences were described as not including the direct hearing or witnessing of anything that could be characterized as being sexually offensive.

The individual initially had difficulty remembering any improper campaign related incidents that occurred in Representative Bates' office. At first, the individual denied that campaign work had taken place in the Member's office during office hours, or that campaign work had been assigned to another staffer. The individual did acknowledge probably having stuffed some campaign envelopes.

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[1] This individual explicitly requested anonymity. The Committee has honored this request.

The individual was adamant, however, about never having placed any campaign calls.

The individual later recanted these statements, when, after questioning, it was remembered that Ms. Dryden had performed campaign work in the back of the office. This person thought that Ms. Dryden's campaign work was directly supervised by Representative Bates.

4. Unidentified Staff Member

On June 8, 1989, Committee staff interviewed a former staff member of Representative Bates' congressional office.[2] This person, who was not accompanied by an attorney, was employed in the Member's office during 1987.

This interviewee claimed frequently to have been the target of the congressman's comments of a sexual nature. At one point, the Member asked her if she would ". . . you know . . ." if they were on a desert island. Another time the Member rubbed his middle finger in the center of her palm, a gesture which is apparently sexual in nature. The individual also recalled an incident in which he ran his finger across her buttocks during a committee meeting. To the best of this person's knowledge, however, no one ever heard or saw these incidents, nor did she ever hear or see anyone else harassed. She stated that sexual harassment was a major reason she left her job.

With respect to improper campaign activities, this person recalled an incident that occurred around 4 o'clock in the afternoon in which the office was closed so that staff members could stuff campaign envelopes. She participated in the activity and remembers other staff employees who helped as well. This person was employed on the congressman's clerk-hire staff when Ms. Dryden started as a campaign worker.

5. Unidentified Staff Member

At Committee staff's request, another former staff member submitted to an interview on July 12, 1989.[3] She was not accompanied by an attorney. She was a staff assistant in the Member's office during 1987.

This person stated that her first encounter with sexual harassment was in the form of Representative Bates' uninvited sexual comments and innuendos. She, too, was asked to give the congressman hugs on a regular basis, at which time Representative Bates would refer to his state of erectness. When Representative Bates became aware of negative staff comments, his apparent reaction was for troubled staff to leave if unable to accept the working environment. On a few occasions, the Member mentioned to her over the phone that he was naked.

There were also at least three occasions on which Representative Bates reportedly touched her upper thigh, as well as an incident when he brushed against her breast. She also said the congressman rubbed his middle finger in the palm of her hand.

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[2] The Committee has honored this individual's request for anonymity.
[3] The Committee has honored this individual's request for anonymity.

The individual stated that she and other staff members made campaign calls out of the office, as well as stuffed envelopes in the office for a fundraiser. To the best of her recollection, however, the envelope stuffing was done "after hours" (i.e., in the evening time). This person stated that she was "strongly" encouraged to attend at least one of the Member's fundraisers. She also remembers the Member telling her that Ms. Dryden was being hired as a campaign fundraiser. Finally, this interviewee said that she left her job, in large part, because of sexual harassment.

B. OBSERVATIONS

Based on the interviews conducted, it appears reasonable to conclude that the allegations in the complaints with respect to the charges of sexual harassment of Ms. Bertussi and Ms. Dryden were sustained, even though the Committee found no other direct witnesses to confirm specific instances of alleged sexual harassment. Thus, it should be noted that the specific occasions of sexual harassment in issue primarily derive from the uncorroborated statements of the complainants concerning the nature, extent, and gravity of the congressman's conduct. However, Representative Bates consistently was described by each of the female interviewees as making inappropriate sexual comments, asking for hugs, or initiating uninvited physical contact.

It is also reasonable to conclude that the allegations of improper campaign activity were sustained. Each of the people interviewed remembered the undertaking of campaign activity in the congressional office. In certain cases, the congressman directed such activity.

C. INTERROGATORIES

By letter dated September 20, 1989, the Committee sent Representative Bates a series of interrogatories seeking responses relevant to issues raised either in the complaint or in interviews conducted by Committee staff. *See*, Exhibit D.

In his sworn response dated October 10, 1989, Representative Bates acknowledged error in having conducted himself in such a way as to give rise to allegations of sexual harassment, as well as undertaking campaign activity in his congressional office. *See*, Appendix 3.

D. FACTUAL CONCLUSIONS

Based upon interviews and interrogatories the Committee concludes that Representative Bates' personal conduct *vis* Ms. Bertussi and Ms. Dryden gave both former staff members reasonable grounds to allege sexual harassment. This conclusion is supported by Representative Bates' responses to the Committee's interrogatories. His conduct demonstrated disregard of how his words and actions were perceived and his failure to avoid the discomfort resulting therefrom.

The Committee further concludes that Representative Bates has taken steps to prevent recurrence of this situation. Specifically, he informed the Committee that not only has he sought and obtained professional guidance to assist him in conforming his personal con-

duct to acceptable standards but also that he has established a formal, written policy concerning sexual harassment in his office. *See,* Appendices 4 and 5.

As regards the second allegation, political campaign activity conducted in Representative Bates' congressional office, it is clear that such did, in fact, occur, at least during the span of several weeks prior to a fundraising event; House resources were improperly used in connection with campaign solicitations. As discussed later in this Report, such activity is improper under relevant guidelines concerning the operation of congressional offices.

IV. Legal Analysis

A. HOUSE RULE XLIII, CLAUSE 9

House Rule XLIII, clause 9, part of the Code of Official Conduct, provides as follows:

> A Member, officer, or employee of the House of Representatives shall not discharge or refuse to hire any individual, or otherwise discriminate against any individual with respect to compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, age, or national origin.

Except for the addition of "age" in the 100th Congress (H. Res. 5, Jan. 6, 1987), the clause has been part of the Rule in its current form since the 94th Congress (H. Res. 5, Jan. 14, 1975).

Rule XLIII, clause 9, grew out of a recommendation to the House Democratic Caucus in late 1974 by Representative Jack Brooks. He had been Vice Chairman of the Joint Committee on Congressional Operations, which found that some Members' offices had told the congressional placement office that they wanted to see only applicants for jobs who were, variously, "white," "young women," "pretty," "men only," "caucasian," "no minorities," or "no Catholics." Representative Brooks' original objective was to "remove any potential of discriminatory practice in the placement office." (AP, as reported in the *Washington Post,* Nov. 29, 1974, emphasis added.) In the Caucus, however, he offered the broader language of what was to become Rule XLIII, clause 9, which was similar to existing law applicable to private employers. In explaining the proposed rule to the Caucus, Representative Brooks stated the following as its intent:

> You apply to the House of Representatives the same basic requirements to employment which Congress through the Equal Opportunity Act has imposed on most other employers. As our colleagues know, Title 7, of the Equal Opportunity Act, prohibits Members of Congress from the jurisdiction of the Equal Employment Opportunity Commission. This exemption, however, was intended to protect the independence of Congress, not to immunize its Members, committees, or officers from the moral obligation of the law. (Democratic Caucus Minutes, December 4, 1974, page 348.)

Representative Brooks went on to state that the amendment would counter the contention that Congress has failed to police its own behavior adequately: "Adoption of my amendment . . . would demonstrate our willingness to regulate our own behavior *by the standards we enact into law.*" (*Id.*; emphasis added.) Thus, the author of the provision clearly intended the House rule to track existing law.

Senator Lee Metcalf, Chairman of the Joint Committee, in a "Report on [the] Congressional Placement Office," described the Caucus action as follows:

> [The Caucus-approved resolution] *extends fair employment principles* to cover all employees of the House and provides procedures to deal with allegations of discriminatory employment practices within that body.
>
> * * * * * * *
>
> The jurisdiction of the House Committee on Standards of Official Conduct is defined by [the Code of Official Conduct] and the committee, upon the adoption of this amendment to the rules, would become responsible for studying, investigating and making recommendations regarding allegations of discrimination in employment within the general authority granted the committee. (*Cong. Record*, daily ed., Dec. 19, 1974, S22388; emphasis added.)

The only comment offered on the floor at the time the clause was adopted was that it "adds a nondiscrimination clause to the code of conduct rule." (Remarks of Representative O'Neill, *Cong. Record*, daily ed., Jan. 14, 1975, H8.)

In a related development, the House, on October 4, 1988, approved H. Res. 558, the "Fair Employment Practices Resolution." It was continued in the 101st Congress by House Resolution 15, adopted on January 3, 1989. The resolution essentially prohibits employment discrimination in the House based on race, sex, and other considerations, and establishes a counseling and grievance procedure. The resolution would not, however, apply to the complaints against Representative Bates, since the actions complained of occurred in 1987 and early 1988, before the resolution took effect.

B. SEXUAL HARASSMENT AS DISCRIMINATION

While House Rule XLIII, clause 9, and the Fair Employment Practices Resolution both seek to assure that personnel actions affecting employment in the House are free from discrimination, neither delineates what constitutes discrimination. It is apparent, however, that general anti-discrimination principles, as enunciated in court decisions and administrative interpretations, are intended to apply. As noted above, the House rule was intended to parallel requirements applicable to other employers. The Fair Employment Practices Resolution specifically requires that actions are to reflect "the principles of current law, as generally applicable to employment." According to Representative Bartlett, this means Equal Employment Opportunity Commission (EEOC) law. (*Cong. Record*, daily ed., Oct. 3, 1988, H9310.)

The Civil Rights Act of 1964, in language tracked by Rule XLIII, clause 9, states that it is an unlawful employment practice for an employer—

> to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex or national origin. (42 U.S.C. § 2000e–2(a)(1).)

Civil Service law, at 5 U.S.C. § 7201, states the policy of the United States "to insure equal employment opportunities for employees without discrimination because of race, color, religion, sex or national origin."

EEOC "Guidelines on Discrimination Because of Sex" are found at 29 C.F.R. Part 1604. Harassment on the basis of sex is stated to be a violation of the above-cited provision of the Civil Rights Act. The guidelines provide:

> Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment. (20 C.F.R. § 1604.11(a).)

Court decisions have supported this position. *See,* e.g., *Bundy* v. *Jackson,* 641 F.2d 934 (C.A.D.C., 1981), holding:

> [A]n employer violates Title VII merely by subjecting female employees to sexual harassment even if the employee's resistance to that harassment does not cause the employer to deprive her of any tangible job benefits. (641 F.2d 943, at 938.)

The Supreme Court, in *Meritor Savings Bank, FSB* v. *Vinson,* 477 U.S. 57 (1986), has upheld the "hostile environment" concept of the EEOC guidelines. Other cases have enunciated an affirmative obligation on the part of an employer to investigate and deal appropriately with harassment. *See,* e.g., *Munford* v. *James T. Barnes & Co.,* 441 F. Supp. 459 (D.C. Mich., 1977).

The language of House Rule XLIII, clause 9, its history, and antidiscrimination principles enunciated in court and administrative interpretations, support the premise that sexual harassment should be considered a form of discrimination in employment prohibited under House rules.

C. POLITICAL ACTIVITIES BY STAFF IN A CONGRESSIONAL OFFICE

Regulations of the Committee on House Administration state that the official allowances are only to be used "to pay ordinary and necessary business expenses incurred by the Member (and/or the Member's employees) within the United States, its territories

and possessions, in support of the conduct of the Member's official and representational duties to the district from which he/she was elected." The allowances may not be used to defray any personal, political, or campaign-related expenses. *See, Congressional Handbook,* pp. 2.1, 2.18. These regulations derive in large part from 31 U.S.C. § 1301a, providing that funds are to be used only for the purposes for which appropriated.

Employees of a Member of the House are compensated from funds of the Treasury for regular performance of official duties. They are not paid for the performance of unofficial, political campaign activities on behalf of the Member. The United States District Court, in a decision involving the franking privilege, noted congressional recognition of the principle that public funds are to be used for official, not campaign purposes: "It is clear from the record that Congress has recognized the basic principle that government funds should not be spent to help incumbents gain reelection." *Common Cause* v. *Bolger,* 574 F.Supp. 672 (D.C. Cir., 1982), Aff'd. 461 U.S. 911 (1983). Once a House employee has completed assigned official duties for which compensated from public funds, the employee may engage in campaign activities on free time, but not using any official resources.

House Rule XLIII, clause 8, part of the Code of Official Conduct, requires that a Member of the House "shall retain no one from his clerk hire allowance who does not perform duties commensurate with the compensation he receives." The Code of Ethics for Government Service, at paragraph 3, calls on employees to "give a full day's labor for a full day's pay." As with official allowances, Members are required to certify each month as to the regular performance of official duties by employees as a requirement of compensation. A false certification could subject the Member to criminal penalties under 18 U.S.C. § 1001. Similarly a scheme to compensate individuals from public moneys for campaign services could be considered fraud against the government. *See, United States* v. *Diggs,* 613 F. 2d 988 (D.C. Cir., 1979), *cert. den.* 446 U.S. 982 (1980).

It is improper under 18 U.S.C. § 607 for anyone to solicit or receive a political contribution in any room or building where federal employees are engaged in the conduct of official duties. The statute reaches all solicitations effected in any office or area where a person paid directly from the Treasury is working, including congressional offices. *See, United States* v. *Burleson,* 127 F. Supp. 400 (E.D. Tenn., 1954).

D. TIMING OF OFFENSES UNDER THE COMMITTEE'S JURISDICTION

The constraints barring application of the Fair Employment Practices Resolution to complaints of discrimination occurring in 1987 and 1988 do not apply to Committee proceedings. Under House Rule X, clause 4(e)(2)(C), no investigation may be undertaken by the Committee of a rule not in effect at the time of the alleged violation. Thus, the Committee would only be barred from investigating discrimination occurring before enactment of Rule XLIII, clause 9. The same reasoning would apply to allegations of improper political activity.

The Committee has, in fact, investigated alleged violations several years old. *See,* e.g. *In the Matter of Representative Charles H. Wilson* (H. Rept. 96-930), and *In the Matter of Representative Austin J. Murphy* (H. Rept. 100-485). The Committee Counsel in each of those cases successfully argued that the Committee was not barred from proceeding by any concept of laches or statute of limitations.

E. LEGAL CONCLUSIONS

The language of House Rule XLIII, clause 9, its history, and anti-discrimination principles support the premise that sexual harassment is a form of discrimination in employment prohibited by House Rules.

Moreover, use of House resources (including employees on official time) to solicit political contributions is improper.

V. CONCLUSIONS

A. SEXUAL HARASSMENT

Representative Bates' conduct in interacting with Ms. Bertussi and Ms. Dryden was sexual harassment in violation of House Rule XLIII, clause 9.

B. POLITICAL ACTIVITY

The undertaking of political campaign activity in Representative Bates' office violated guidelines established to prevent such activity.

VI. RECOMMENDATION

In reaching its decision on the appropriate disposition of this case, the Committee was guided by several important considerations—the nature of the violations and factors in mitigation. This approach is well-established.

In the *Manual of Offenses and Procedures, Korean Influence Investigation* (the *'Manual"*), June 1977, the Committee offered, in part, a detailed explanation of the process and considerations underlying sanction recommendations. The *Manual* states, in part:

> House rule XLIII does not specify the sanction to be imposed upon a finding that a Member failed to adhere to the Code of Official Conduct. The committee should evaluate the particular circumstances of each violation to determine whether any sanction is warranted and, if so, the severity of the sanction that is appropriate under circumstances. *Manual,* p. 31.

In applying the above-quoted approach to specific fact situations, the *Manual* goes on to state:

> In sum, the Committee should adapt the substantive . . . code provisions . . . to the disciplinary context by considering the recommendation of sanctions where the substance of those provisions was violated by a Member acting: (1) with actual knowledge of all the relevant facts; (2) in reckless disregard of the relevant facts; or

> (3) without exercising reasonable care to ascertain the propriety of the gift or compensation accepted or of the transaction when he participated.
>
> * * * * * * *
>
> Similarly, violation of the . . . various code of conduct standards, which do not by their terms require any knowledge or intent would provide a basis for imposing sanctions only upon proof that the Member was placed on notice of an ethical problem and failed to discharge his duty of reasonable inquiry to determine the propriety of accepting the tendered gift or payment. *Manual*, pp. 35–36.

The above-quoted excerpts have applicability to a violation of House Rule XLIII, clause 9, as much as they have to transgressions involving Members' receipt of gifts, which was central to the considerations in the *Manual*, or matters concerning the use of campaign funds. *See,* House Report 100–382, October 20, 1987. These matters are covered by the Code of Official Conduct, House Rule XLIII. In any such case, the Committee considers the violation identified as well as whether the Member was on actual notice of an ethical problem and exercised reasonable care in the matter.

Regarding sexual harassment, House Rule XLIII, clause 9, is intended to preclude situations such as here involved. Consequently, Representative Bates was placed on at least constructive notice of the relevant prohibitions by virtue of the existence of the Rule itself, if not on direct notice by virtue of the reactions of Ms. Bertussi and Ms. Dryden to his conduct.

Representative Bates stated that he considered his conduct as flirtatious and did not intend to sexually harass staff. Second, Representative Bates has taken corrective action on his own initiative to prevent a recurrence of sexual harassment in his office. (*See,* Appendix 4.)

Finally, with respect to the matter of personal conduct and sexual harassment, the Committee established that Representative Bates has sought and obtained professional guidance to assist him in preventing a recurrence of the actions which precipitated the complaints. *See,* Appendix 5.

In view of the above, the Committee concludes that while Representative Bates has acted appropriately to avoid future harassing conduct, the same conclusion cannot, however, be reached in connection with the congressman's action *vis* Rule XLIII, clause 9, which preceded his curative steps. Again, Representative Bates knew, or should have known, of the prohibition against sexual harassment.

In connection with the improper campaign activities, the Committee first notes that Representative Bates has acknowledged error, has expressed regret, and has not asserted any defense, such as a lack of clear guidelines or a misunderstanding of operative facts. Second, while clearly inappropriate, the Committee did not adduce evidence that the campaign activities were an ongoing, regular occurrence. Instead, the information obtained suggests the political activity was sporadic, precipitated by fundraising event(s). Third, much of Ms. Dryden's (the primary individual performing these

tasks) campaign work was accomplished while she was a campaign employee and not on the congressional payroll. This is not to say, however, that official resources were not otherwise used improperly by her and other staff. The Committee cannot condone the campaign violations of the type which were identified. However the Committee has not previously addressed these types of violations in a case report. Accordingly, the Committee must not only respond appropriately to the facts in this case, but also place other Members on notice that future violations will be viewed in the context of this Report with the clear possibility that more severe action will be pursued.

In the present case, the Committee concludes that recommending a sanction to the House is unnecessary. While recognizing violations have occurred, the Committee believes that the matters involved need not be pursued in a Statement of Alleged Violation. Consequently, the Committee has determined that the better course is to formally and publicly reprove Representative Bates for his violations with an explicit direction that he apologize to Ms. Dryden and Ms. Bertussi for his inappropriate conduct. Accordingly, the Committee has sent such a letter to Representative Bates, a copy of which is included with this Report.

This Report was approved by the Committee on Standards of Official Conduct on October 18, 1989, by a vote of 12 ayes; 0 nays.

Statement Under Rule XI, Clause 2(l)(3)(A)

The Committee's oversight findings and recommendation are as stated above. No budget statement is submitted.

EXHIBIT A

U.S. House of Representatives
Committee on Standards of Official Conduct
Suite HC-2, U.S. Capitol
Washington, DC 20515

October 18, 1988

Ms. Dorena Bertussi

Dear Ms. Bertussi:

This letter responds to the complaint you submitted against Representative Jim Bates.

Pursuant to the Committee's Rules of Procedure, copy enclosed, your complaint will be placed on the agenda for the next scheduled meeting of the Committee.

Because of the nature of the alleged conduct of Representative Bates which underlies a portion of your submission, the Committee will take all reasonable steps to avoid identifying you as a complainant in this matter.

Sincerely,

Julian C. Dixon
Chairman

John T. Myers
Ranking Minority Member

JS:RLL

Enclosure

ONE HUNDREDTH CONGRESS
JULIAN C. DIXON, CALIFORNIA, CHAIRMAN
LEE H. HAMILTON, INDIANA
DAVID E. BONIOR, MICHIGAN
DAN MICA, FLORIDA
ALAN D. WHEAT, MISSOURI
JOSEPH M. GAYDOS, PENNSYLVANIA
CHESTER G. ATKINS, MASSACHUSETTS
(202) 225-7103

JOHN T. MYERS, INDIANA
JOEL PRITCHARD, WASHINGTON
BILL GRADISON, OHIO
GEORGE W. GEKAS, PENNSYLVANIA
LARRY E. CRAIG, IDAHO
HANK BROWN, COLORADO
(VACANT), CHIEF COUNSEL

U.S. House of Representatives

Committee on Standards of Official Conduct
Suite HT-2, U.S. Capitol
Washington, DC 20515

October 18, 1988

Ms. Karen E. Dryden

Dear Ms. Dryden:

This letter responds to the complaint you submitted against Representative Jim Bates.

Pursuant to the Committee's Rules of Procedure, copy enclosed, your complaint will be placed on the agenda for the next scheduled meeting of the Committee.

Because of the nature of the alleged conduct of Representative Bates which underlies a portion of your submission, the Committee will take all reasonable steps to avoid identifying you as a complainant in this matter.

Sincerely,

Julian C. Dixon
Chairman

John T. Myers
Ranking Minority Member

JS:RLL

Enclosure

EXHIBIT B

U.S. House of Representatives
Committee on Standards of Official Conduct
Room HT-2, U.S. Capitol
Washington, DC 20515

August 3, 1989

RESOLUTION

WHEREAS, the Committee on Standards of Official Conduct has been presented with sworn complaints from two individuals against Representative Jim Bates, alleging that they were sexually harassed by Representative Bates and that congressional staff and resources were used to perform campaign-related activities; and

WHEREAS, these allegations, if shown to be true, would constitute violations of the Code of Official Conduct or a law, rule, regulation or other standard applicable to Representative Bates' conduct in the performance of his duties or in the discharge of his responsibilities; and

WHEREAS, pursuant to Committee Rule 10(b), the Committee determines that the allegations in the complaints merit further inquiry;

NOW, THEREFORE, BE IT RESOLVED, that this Committee conduct a Preliminary Inquiry pursuant to Committee Rule 11(a) to determine whether such violations have occurred; and

BE IT FURTHER RESOLVED, that the Chairman and Ranking Minority Member are authorized to issue subpoenas on behalf of the Committee, either for the taking of depositions or the production of records, and that all testimony taken by deposition or things produced pursuant to subpoena or otherwise shall be deemed to have been taken, produced, or furnished in Executive Session; and

BE IT FURTHER RESOLVED, that Representative Bates be immediately notified of this action and informed of his rights pursuant to the Rules of this Committee.

EXHIBIT C

U.S. House of Representatives

Committee on Standards of Official Conduct
Room HT-2, U.S. Capitol
Washington, DC 20515

August 4, 1989

The Honorable Jim Bates
United States House of Representatives
224 Cannon House Office Building
Washington, D. C. 20515

Dear Colleague:

By direction of the Committee on Standards of Official Conduct, we hereby notify you that the Committee has voted to conduct a Preliminary Inquiry to determine whether you may have committed one or more violations of the Code of Official Conduct, or a law, rule, regulation or other standard of conduct applicable to your conduct in the performance of your duties or in the discharge of your responsibilities.

The complete text of a Resolution agreed to by the Committee at its meeting on August 3, 1989, is enclosed, along with a copy of the Committee's Rules of Procedure.

Pursuant to Rule 11(a)(2)(A) of the Committee's Rules, you have the right "to present to the Committee, orally or in writing, a statement respecting the allegations with respect to which the inquiry is being held." If you wish to appear before the Committee to present oral testimony under oath, you must so inform the Committee and a Committee meeting will be scheduled for the purpose of receiving that testimony.

Sincerely,

Julian C. Dixon
Chairman

John T. Myers
Ranking Minority Member

Enclosures

EXHIBIT D

U.S. House of Representatives

Committee on Standards of Official Conduct
Room HT-2, U.S. Capitol
Washington, DC 20515

September 20, 1989

The Honorable Jim Bates
United States House of Representatives
224 Cannon House Office Building
Washington, D. C. 20515

Dear Colleague:

On behalf of the Committee on Standards of Official Conduct, in connection with the Resolution of Preliminary Inquiry adopted on August 3, 1989, we request that you respond, under oath, to certain questions as set forth below. In connection with your responses, please include any additional information, documentation, or explanation that you believe would assist the Committee in the subject Preliminary Inquiry.

1. Did you ever have any physical contact with Ms. Dorena Bertussi, unintentional or otherwise, such that you straddled her leg(s)?

   (a) If so, please explain the nature and surrounding circumstances of such contact.

   (b) If not, please explain whether you ever interacted with Ms. Bertussi in circumstances that she might have perceived as involving such physical contact.

2. Did you ever make statement(s) to and/or engage in behavior (e.g., looks, gestures, etc.) towards Ms. Bertussi that could have been construed as either flirtatious or a manner of inappropriate advance?

   (a) If so, detail and describe the statement(s) and/or behavior.

   (b) Did anyone, besides Ms. Bertussi, hear you make such statement(s)?

3. Did you ever make a sexual advance(s) toward Ms. Bertussi?

(a) If so, describe the advance(s) and the surrounding circumstances in detail.

4. Did you ever discuss any "fantasy" with Ms. Bertussi regarding her or another individual on your clerk-hire staff?

(a) If so, detail the substance and circumstances surrounding such discussion.

5. During the period of her employment on your clerk-hire staff, was it your tendency to make body contact, casual or otherwise, with Ms. Bertussi?

(a) If so, detail the nature and circumstances surrounding the contact(s).

(b) Who, if anyone, saw this type of contact?

6. Was any physical contact described in the above question ever initiated by Ms. Bertussi?

(a) If so, describe the nature of the contact and the occasion(s) at which it occurred.

(b) Who, if anyone, saw the contact initiated by Ms. Bertussi?

7. Did Ms. Bertussi ever communicate, orally or in writing, directly to you or indirectly to you through any of your congressional office subordinates, that she considered your interaction(s) with her unacceptable?

(a) If so, describe the form, nature, and circumstances surrounding her communication.

8. Did any of your congressional office staff, acting at their own initiative, ever inform you that Ms. Bertussi was troubled by the nature of your interaction(s) with her?

(a) If so, which subordinate(s) spoke with you, what was the manner and substance of the communication, and when did it occur?

9. What were the circumstances surrounding the termination of Ms. Bertussi's employment on your congressional office staff?

10. Have you apologized to Ms. Bertussi for any of your behavior that she may have perceived as inappropriate?

    (a) If so, when?

    (b) In what manner?

11. Did you ever hug, and/or request a hug(s) from Ms. Karen Dryden?

    (a) If so, detail the specific setting(s) or location(s) in which this hug(s) occurred?

    (b) Did the hug(s) ever take place in front of others, and/or did the hug(s) take place in private?

12. Did you ever make statement(s) to and/or engage in behavior (e.g., looks, gestures, etc.) towards Ms. Dryden that could have been construed as either flirtatious or a manner of inappropriate advance?

    (a) If so, detail and describe the statement(s) and/or behavior.

    (b) Did anyone, besides Ms. Dryden, hear you make such statement(s)?

13. Did you ever make a sexual advance(s) toward Ms. Dryden?

    (a) If so, describe the advance(s) and the surrounding circumstances in detail.

14. Did Ms. Dryden ever communicate, orally or in writing, directly to you or indirectly to you through any of your congressional office subordinates, that she considered your interaction(s) with her unacceptable?

    (a) If so, describe the form, nature, and circumstances surrounding her communication.

15. Did any of your congressional office staff, acting at their own initiative, ever inform you that Ms. Dryden was troubled by the nature of your interaction(s) with her?

16. During the period of her employment on your clerk-hire staff, was it your tendency to make body contact, casual or otherwise, with Ms. Dryden?

    (a) If so, detail the nature and circumstances surrounding the contact(s).

    (b) Who, if anyone, saw this type of contact?

17. Was any physical contact ever initiated by Ms. Dryden?

    (a) If so, describe the nature of the contact and the number of occasions at which it occurred.

18. What were the circumstances surrounding the termination of Ms. Dryden's employment on your congressional staff?

19. Have you apologized to Ms. Dryden for any of your behavior that she may have perceived as inappropriate?

    (a) If so, when?

    (b) In what manner?

20. Did Ms. Dryden ever perform campaign-related work for you before, during, or after her initial hiring as an employee on your clerk-hire staff?

    (a) If so, did you direct that she perform this activity?

    (b) During what time period(s) did she perform this work?

    (c) Where did she perform this work?

21. Detail the nature of the campaign-related work performed by Ms. Dryden.

    (a) Who, if anyone, supervised the campaign-related work performed by Ms. Dryden?

(b) Name other office or campaign staffers, if any, that may have observed the campaign work performed by Ms. Dryden.

22. To your knowledge, did Ms. Dryden use House (i.e., official) resources (e.g., phones, copiers, etc.) to perform campaign-related activities either inside or outside your congressional office?

(a) If so, what resources did she use?

(b) Please identify any individuals, including yourself, who may have witnessed her using House resources.

23. Did either Ms. Bertussi, Ms. Dryden, or any other individual on your clerk-hire staff receive instructions from you, directly or indirectly, to perform campaign-related work in your Washington, D.C., congressional office?

(a) If so, state the name(s) of the person(s) who received such instructions, and detail the nature of the duties they were asked to perform.

(b) To your knowledge, did they actually perform these duties?

24. Did you ever request any member of your congressional staff to attend or assist any of your campaign activities?

(a) If so, specify the events they were requested or required to attend.

25. To your knowledge, did any individual on your congressional office staff request other staff members to perform campaign-related work without your approval or direction?

(a) If so, which higher level staffers made the requests, and to which lower level employees?

(b) What activities were the lower level staffers requested to perform?

26. Which, if any, of your congressional office staff volunteered to perform campaign-related work for you?

(a) What work did they volunteer to perform?

Because of the Committee's interest in completing the subject Preliminary Inquiry, please provide your responses to the foregoing questions as soon as possible. As note, we request that your responses be submitted under oath pursuant to the provisions of 28 U.S.C. §1746.

Sincerely,

Julian C. Dixon
Chairman

John T. Myers
Ranking Minority Member

JS:VPH

Copy to: Stanley M. Brand, Esquire
Brand & Lowell
923 Fifteenth Street, N.W.
Washington, D. C. 20005

EXHIBIT E

ONE HUNDRED FIRST CONGRESS
JULIAN C. DIXON, CALIFORNIA, CHAIRMAN
VIC FAZIO, CALIFORNIA
BERNARD J. DWYER, NEW JERSEY
ALAN B. MOLLOHAN, WEST VIRGINIA
JOSEPH M. GAYDOS, PENNSYLVANIA
CHESTER G. ATKINS, MASSACHUSETTS
(202) 225-7103

JOHN T. MYERS, INDIANA
JAMES V. HANSEN, UTAH
CHARLES PASHAYAN, JR., CALIFORNIA
THOMAS E. PETRI, WISCONSIN
LARRY E. CRAIG, IDAHO
FRED GRANDY, IOWA
RALPH L. LETTER, CHIEF COUNSEL

U.S. House of Representatives

Committee on Standards of Official Conduct
Suite HT-2, U.S. Capitol
Washington, DC 20515

October 18, 1989

The Honorable Jim Bates
United States House of Representatives
224 Cannon House Office Building
Washington, D. C. 20515

Dear Representative Bates:

On August 3, 1989, this Committee initiated a Preliminary Inquiry focusing on whether, as alleged in two separate complaints: (1) you sexually harassed two individuals while they were employees on your clerk-hire staff; and (2) you directed or approved impermissible political campaign activity to be undertaken in your congressional office.

The Committee's Preliminary Inquiry included an analysis of relevant standards of conduct applicable to you, as well as interviews with the complainants and other individuals believed to have information on the matter. In responding to interrogatories issued by the Committee, you acknowledged under oath the general accuracy of the complaints and that you regretted your actions with regard to sexual harassment. Similarly, you also acknowledged and regretted error in connection with impermissible campaign activity in your congressional office.

The Committee holds you responsible for being familiar with rules governing these areas. Your improper conduct and concurrent violations of relevant standards deserve reproval. Accordingly, the Committee directs that you refrain from any activity which would suggest recurrence of the situations giving rise to the complaints.

The Committee recognizes and has taken into consideration not only your acknowledgment of errors but also those steps you have taken to avoid any perception that you interact with staff in an untoward manner. You have sought and obtained professional guidance to assist you in preventing any further assertion that you engage in sexual harassment, including the preparation of a formal written office policy on the matter.

The Committee found that violations of relevant standards of conduct did occur. Therefore, the Committee formally and

publicly reproves you for your failure to conduct yourself in accordance with House Rule XLIII, clause 9, and with guidelines concerning the undertaking of political campaign activity in a congressional office. In this connection, you are further notified that any further violation by you in the areas which were the subject of the Committee's Preliminary Inquiry may result in a recommendation that disciplinary action be considered by the House.

Finally, while the Committee recognizes that you have issued a general apology to anyone who may have been offended by your personal conduct, such apology is not deemed sufficient vis the two individuals who submitted complaints to the Committee. Accordingly, you are further directed to communicate in writing to both Ms. Dorena Bertussi and Ms. Karen Dryden apologizing for behavior which was sexual harassment, copies of which should be provided to this Committee.

In order to provide as complete a public record as possible, this letter of reproval will be made a part of the Committee's report concerning these matters to be filed with the House of Representatives.

Sincerely,

Julian C. Dixon
Chairman

John T. Myers
Ranking Minority Member

October 7, 1988

The Honorable William M. Thomas
2402 Rayburn House Office Building
Washington, D.C. 20515

Dear Representative Thomas:

I am writing to request that you forward my complaint against Congressman Jim Bates, Representative for the 44th District, San Diego, California, business address: 1404 Longworth HOB, Washington D.C., to the House of Representatives Committee On Standards Of Official Conduct.

In the past, I chose not to bring forth an official complaint against Mr. Bates for misconduct, due to the following reasons: 1) fear of being terminated from my newly acquired position with another Member, 2) fear of being blacklisted on the Hill, and 3) concerns for my personal safety. However, since the appearance of the article in Roll Call on Monday, September 26, 1988, I have felt compelled to instigate a formal complaint in order for the truth to be known.

Unfortunately, many individuals quoted in the article remain concerned for their careers and are afraid to come forward. The individuals I have talked with, expressed hope that this Committee will start an investigation, and they will finally be able to come forward with their own story of sexual harassment and information pertaining to the possible illegal use of his staff for campaign work.

I will list several instances of sexual harassment and of possible illegal use of his staff for his re-election campaign, which I experienced during my employment for Mr. Bates from October 1987 to March 1988. Since I am concerned about possible retaliation from Mr. Bates, I will list only a few instances. If and when I am requested to testify, I will provide more detailed information.

1. I was sitting at my desk with my legs crossed, Mr. Bates came over to me in full view of other staff members and took my extended leg between his legs and started moving up and down. While this occurred he reached down and attempted to fondle my hands. Needless to say, I was extremely embarrassed.

2. A newly hired young female employee requested that I give her advice on how to handle Mr. Bate's advances toward her. She told me that he was constantly asking her to give him hugs, and asking her if she missed him when he was gone from the office.

3. One morning, it was my turn to pick up Mr. Bates at the airport. While I was driving him to the office, he told me that he had this fantasy of pushing Mary (a current employee of his) up against a wall, hitting her in the face, until blood trickled from her

mouth. After this remark, he asked me what he would see first when he came in the front door of my apartment. He asked me to confirm whether or not it would be the bed.

4. Mr. Bates called me out of the office and into the hallway in front of the office. He approached me closely, shaking in an uncontrollable manner and informed me that since I am his employee, I had to do anything he requests. From this incident, my fear for my personal safety increased.

5. During office hours, I and other employees had to perform numerous activities which I feel were campaign related. For instance, we were told to call Political Action Committee's, and see if they would be coming to Mr. Bates fundraiser, and if not, were they going to send a contribution.

The complaints expressed above were some of the problems I faced. I did have a fear of losing my job and for my personal safety on many occasions. I did talk to the Legislative Director, Jay Hansen on numerous occasions concerning the sexual harassment I faced. He told me that Mr. Bates had always had a problem along this line, and that he (Jay) has talked to him before about sexually harassing other female employees.

Needless to say, I found the above situation intolerable and obtained employment elsewhere. I am now putting forth this complaint based on the fact that I can no longer stand by and give tacit support for this type of activity. There needs to be a complete and thorough investigation. Although many of Mr. Bates ex-staffers, remain genuinely fearful, they are looking forward to an opportunity to come forward and testify under oath.

I would like to re-emphasize that I do have concerns for my personal safety. At this point of the complaint process, I implore this Committee to respect my desire for confidentiality.

I declare under penalty of perjury that the foregoing is true to the best of my knowledge and that this declaration was executed on October 7, 1988, at Washington, D.C.

Respectfully submitted,

Ms Dorena Bertussi

Ms. Dorena Bertussi

CITY OF WASHINGTON
DISTRICT OF COLUMBIA

SWORN TO AND SUBSCRIBED IN MY PRESENCE
THIS 7th- DAY OF OCTOBER, 1988.

Robert H. Cooksey
Notary Public, Dist. of Columbia
Commission Expires July 14 1990

APPENDIX 2

October 7, 1988

The Honorable William M. Thomas
2402 Rayburn House Office Building
Washington, D.C. 20515

Dear Representative Thomas:

I am writing to request that you forward my complaint against Congressman Jim Bates, Representative for the 44th District, San Diego, CA, business address: 1404 Longworth HOB, Washington D.C., to the House of Representatives Committee On Standards Of Official Conduct.

I did not come forward earlier for an number of reasons, most importantly, I did not want to lose my job or jeopardize future employment on Capitol Hill. When I was working for Congressman Bates, I contacted several agencies including the House Committee on Standards of Official Conduct in an effort to get help but every agency wanted names and specifics. At the time, I felt I had too much to lose by coming forward. Now I feel I have to do what is right and just.

During my one year (April 87 to April 88) with Congressman Bates, there were several instances of sexual harassment as well as possible illegal use of staff for reelection campaign purposes. The sexual harassment began in the first week of my employment with Congressman Bates. I was invited to attend a fundraiser for Gary Hart and afterwards, Congressman Bates offered to drop me off at the Metro. During the car ride, he told me I was pretty and that because he had had too much to drink at the reception, I needed to let him know when he had "...gone too far". When he put his hand on my knee, I told him "You've gone too far." He promptly removed his hand.

The first month with Congressman Bates I worked in an adjoining office which was actually a hallway leading to an alternate exit from his private office. Each time Congressman Bates passed through the hall, normally two or three times a day, he would stop at my desk, tell me how pretty I was or touch my shoulders. Sometimes he would massage my shoulders; this made me very uncomfortable.

Near the end of May, 1987, I received what I considered a promotion: I became a Legislative Assistant. During the rest of my time as a Legislative Assistant, nearly every time I went into Congressman Bates' private office and we were alone, he would hug me saying, "Hugs make me feel better". If I had denied him a hug, I have no doubt that I would have lost my job. Consequently, I avoided private meetings and discussions with him; instead I wrote a lot of memos. In addition to hugs, he also grabbed my buttocks. That disgusted me.

There were many instances of possible illegal use of employees for campaign purposes. My first assignment with Congressman Bates was organizing a fundraiser held in May, 1987. Virtually every call made

to PACs and individual contributors were made from the office at Congressman Bates' request. All of his employees were expected to make calls and ask for contributions; we were given lists of contacts. In addition, we were requested to make similar calls on behalf of George Stevens, an employee of Congressman Bates in San Diego, who was running for San Diego City Council. I feel that this as well as the sexual harassment instances are serious enough to warrant investigation by the Committee on Standards of Official Conduct.

I declare under penalty of perjury that the foregoing is true to the best of my knowledge and that this declaration was executed on October 7, 1988, at Washington, D.C.

Respectfully submitted,

Karen E. Dryden

CITY OF WASHINGTON
DISTRICT OF COLUMBIA

SWORN TO AND SUBSCRIBED IN MY PRESENCE
THIS 7th. DAY OF OCTOBER, 1988.

Robert H. Cooksey
Notary Public, Dist. of Columbia
Commission Expires July 14, 1990

APPENDIX 3

JIM BATES
[illegible] DISTRICT, CALIFORNIA

COMMITTEE ON ENERGY AND COMMERCE

COMMITTEE ON GOVERNMENT OPERATIONS

COMMITTEE ON HOUSE ADMINISTRATION

CHAIRMAN
SUBCOMMITTEE ON PROCUREMENT AND PRINTING

Congress of the United States
House of Representatives

October 10, 1989

PLEASE REPLY TO
[illegible] CANNON BUILDING
WASHINGTON, D.C. [illegible]
[illegible]

MARKETPLACE AT THE [illegible]
[illegible] COLLEGE AVENUE, #[illegible]
SAN DIEGO, CA [illegible]
[illegible]

[illegible] DAVIDSON STREET, SUITE A
CHULA VISTA, CA [illegible]
[illegible]

The Honorable Julian C. Dixon
The Honorable John T. Myers
Committee on Standards of Official Conduct
HT-2
The Capitol
Washington, D. C. 20515

Dear Chairman Dixon and Ranking Minority Member Myers:

Enclosed please find my responses to the Committee's Interrogatories. As a supplement to those interrogatories, I would like to amplify the circumstances regarding Ms. Dryden's campaign work raised in Interrogatory No. 20. To the best of my recollection, Ms. Dryden performed campaign work for me over a five-week period in addition to her duties as a Congressional Intern. Her internship was on a volunteer non-paid basis, however she was paid with campaign funds for her campaign related work. Although she was in my office nearly every day during this time period, I have no specific recollection regarding the exact number of calls she made on my behalf, or how often she made them. I do recall that over this five-week time period, at times I specifically requested that she make calls to particular campaign related individuals, many of whom I spoke with as soon as she reached them.

I hope that this information will assist the Committee in concluding its preliminary inquiry. To that end, and for the purposes of expediting resolution of this inquiry, I hereby waive my rights under Committee Rules XI, XII, and XVI, provided that the Committee does not proceed to initiate formal proceedings by way of a statement of alleged violations. In the event that the Committee commences formal proceedings, this submission will not constitute a waiver of any defense or rights I May have.

Again, as my responses indicate, I regret any offense which my conduct may have occcasioned to anyone on my staff or any inappropriate use of official resources for campaign related work.

Pursuant to 28 U.S.C. Sec. 1746 I state that to the best of my recollection, the attached interrogatories are true and correct, under penalty of perjury.

Sincerely,

JIM BATES
Member of Congress

RESPONSE TO INTERROGATORIES

RE: THE HONORABLE JIM BATES

INTERROGATORY NO. 1: Did you ever have any physical contact with Ms. Dorena Bertussi, unintentional or otherwise, such that you straddled her leg(s)?

ANSWER NO. 1: No.

INTERROGATORY NO. 1 (a): If so, please explain the nature and surrounding circumstances of such contact.

ANSWER 1 (a): I never "straddled" Ms. Bertussi's leg. However, I do remember that unintentionally I once briefly bumped her left leg with my right leg during a legislative discussion, in full view of the staff. I specifically recall that Jay Hansen observed this perfunctory contact. (Jay Hansen statement attached as Exhibit 1 .)

INTERROGATORY NO. 1 (b): If not, please explain whether you ever interacted with Ms. Bertussi in circumstances that she might have perceived as involving such physical contact.

ANSWER 1 (b): Never.

INTERROGATORY NO. 2: Did you ever make statement(s) to and/or engage in behavior (e.g., looks, gestures, etc.) towards Ms. Bertussi that could have been construed as either flirtatious or a manner of inappropriate advance?

ANSWER NO. 2: Of course, I cannot say how someone else may have construed something I said, but on two occasions that I can recall I made a statement that Ms. Bertussi may have construed as inappropriate.

INTERROGATORY NO. 2 (a): If so, detail and describe the statement(s) and/or behavior.

ANSWER NO. 2(a): On one occasion, I recall that as she was standing by the elevator I told her that she looked nice that day. She may have misconstrued my complement as inappropriate behavior, although I did not intend it to be anything more.

On a second occasion, I recall that Ms. Bertussi was telling the office about her new apartment and how small it was. She complained that her bed, when taken down from the wall, took up the whole apartment, and that she would in fact fall over it. I may have made a comment in the course of the conversation in the group which I do not specifically recall, but it was in the vein of "that's nice."

INTERROGATORY NO. 2 (b): Did anyone, besides Ms. Bertussi, hear you make such statement(s)?

ANSWER NO. 2 (b): On the first occasion, I do not believe that anyone else was present. The second occurred in the presence of my office staff.

INTERROGATORY NO. 3: Did you ever make a sexual advance(s) toward Ms. Bertussi?

ANSWER NO. 3: No.

INTERROGATORY NO. 3 (a): If so, describe the advance(s) and the surrounding circumstances in detail.

ANSWER NO. 3 (a): N/A.

INTERROGATORY NO. 4: Did you ever discuss any "fantasy" with Ms. Bertussi regarding her or another individual on your clerk-hire staff?

ANSWER NO. 4: No.

INTERROGATORY NO. 4 (a): If so, detail the substance and circumstances surrounding such discussion.

ANSWER NO. 4 (a): N/A.

INTERROGATORY NO. 5: During the period of her employment on your clerk-hire staff, was it your tendency to make body contact, casual or otherwise, with Ms. Bertussi?

ANSWER NO. 5: No.

INTERROGATORY NO. 5 (a): If so, detail the nature and circumstances surrounding the contact(s).

ANSWER NO. 5 (a): N/A.

INTERROGATORY NO. 5 (b): Who, if anyone, saw this type of contact?

ANSWER NO. 5 (b): N/A.

INTERROGATORY NO. 6: Was any physical contact described in the above question ever initiated by Ms. Bertussi?

ANSWER NO. 6: No.

INTERROGATORY NO. 6 (a): If so, describe the nature of the contact and the occasion(s) at which it occurred.

ANSWER NO. 6 (a): N/A.

INTERROGATORY NO. 6 (b): Who, if anyone, saw the contact initiated by Ms. Bertussi?

ANSWER NO. 6 (b): N/A.

INTERROGATORY NO. 7: Did Ms. Bertussi ever communicate, orally or in writing, directly to you or indirectly to you through any of your congressional office subordinates, that she considered your interaction(s) with her unacceptable?

ANSWER NO. 7: No. In fact, when Ms. Bertussi left my employ, I inquired whether she had any complaints about me. She replied that she did not.

INTERROGATORY NO. 7 (a): If so, describe the form, nature, and circumstances surrounding her communication.

ANSWER NO. 7 (a): N/A.

INTERROGATORY NO. 8: Did any of your congressional office staff, acting at their own initiative, ever inform you that Ms. Bertussi was troubled by the nature of your interaction(s) with her?

ANSWER NO. 8: No.

INTERROGATORY NO. 8 (a): If so, which subordinate(s) spoke with you, what was the manner and substance of the communication, and when did it occur?

ANSWER NO. 8 (a): N/A.

INTERROGATORY NO. 9: What were the circumstances surrounding the termination of Ms. Bertussi's employment on your congressional office staff?

ANSWER NO. 9: Ms. Bertussi left my office on April 2, 1988. She told me that she had taken a job with another congressman as a foreign affairs Legislative Assistant, an area in which she was interested, but which she could not work on in my office because that subject was already assigned to someone else.

INTERROGATORY NO. 10: Have you apologized to Ms. Bertussi for any of your behavior that she may have perceived as inappropriate?

ANSWER NO. 10: Yes.

INTERROGATORY NO. 10 (a): If so, when?

ANSWER NO. 10 (a): In late September and early October, 1988.

INTERROGATORY NO. 10 (b): In what manner?

ANSWER NO. 10 (b): I publicly apologized to all of my staffers and the public for kidding and flirting with the women on my staff and for any of my behavior which may have been misconstrued. (Newspaper articles attached as Exhibits 2-4 .)

INTERROGATORY NO. 11: Did you ever hug, and/or request a hug(s) from Ms. Karen Dryden?

ANSWER NO. 11: Yes.

INTERROGATORY NO. 11 (a): If so, detail the specific setting(s) or location(s) in which this hug(s) occurred?

ANSWER NO. 11 (a): On one occasion Ms. Dryden came into my 1404 Longworth office to speak with me. During the conversation, I said something to the effect of needing a hug. Ms. Dryden gave me a hug. I hugged her on one other occasion while I was congratulating her upon her recent marriage. This hug also occurred in 1404 Longworth. While I now recognize these actions were inappropriate, and have taken steps to prevent them from ever happening again, I did not intend them to be offensive or insensitive.

INTERROGATORY NO. 11 (b): Did the hug(s) ever take place in front of others, and/or did the hug(s) take place in private?

ANSWER NO. 11 (b): There were no witnesses to either exchange.

INTERROGATORY NO. 12: Did you ever make statement(s) to and/or engage in behavior (e.g., looks, gestures, etc.) towards Ms. Dryden that could have been construed as either flirtatious or a manner of inappropriate advance?

ANSWER NO. 12: Yes.

INTERROGATORY NO. 12 (a): If so, detail and describe the statement(s) and/or behavior.

ANSWER NO. 12 (a): In addition to the two hugs, I can recall only one other occasion which occurred following a Gary Hart fundraiser. I was riding in a car with Ms. Dryden. During a conversation, I jokingly placed my hand over hers and kidded her that she should tell me when I'd "gone too far." She said that I had gone too far. Nothing further occurred.

INTERROGATORY NO. 12 (b): Did anyone, besides Ms. Dryden, hear you make such statement(s)?

ANSWER NO. 12 (b): No one else witnessed this incident.

INTERROGATORY NO. 13: Did you ever make a sexual advance(s) toward Ms. Dryden?

ANSWER NO. 13: No.

INTERROGATORY NO. 13 (a): If so, describe the advance(s) and the surrounding circumstances in detail.

ANSWER NO. 13 (a): N/A.

INTERROGATORY NO. 14: Did Ms. Dryden ever communicate, orally or in writing, directly to you or indirectly to you through any of your congressional office subordinates, that she considered your interaction(s) with her unacceptable?

ANSWER NO. 14: No.

INTERROGATORY NO. 14 (a): If so, describe the form, nature, and circumstances surrounding her communication.

ANSWER NO. 14 (a): N/A.

INTERROGATORY NO. 15: Did any of your congressional office staff, acting at their own initiative, ever inform you that Ms. Dryden was troubled by the nature of your interaction(s) with her?

ANSWER NO. 15: No.

INTERROGATORY NO. 16: During the period of her employment on your clerk-hire staff, was it your tendency to make body contact, casual or otherwise, with Ms. Dryden?

ANSWER NO. 16: While I do not recall any specific contact with Ms. Dryden other than that which I have already described, I do have a tendency to place my hand on a person's shoulder while speaking to them. I do this to most people, regardless of their sex, and it is possible that I likewise touched Ms. Dryden during a conversation. This tendency of mine is well-known, and if it occurred, was quite likely witnessed by other people. As part of my efforts to insure that I do not offend anyone, I have consciously attempted to refrain from making any contact with staff to prevent a recurrence of any offensive conduct.

INTERROGATORY NO. 16 (a): If so, detail the nature and circumstances surrounding the contact(s).

ANSWER NO. 16 (a): This question was explained in Interrogatory No. 16.

INTERROGATORY NO. 16 (b): Who, if anyone, saw this type of contact?

ANSWER NO. 16 (b): This question was answered in Interrogatory No. 16.

INTERROGATORY NO. 17: Was any physical contact ever initiated by Ms. Dryden?

ANSWER NO. 17: No.

INTERROGATORY NO. 17 (a): If so, describe the nature of the contact and the number of occasions at which it occurred.

ANSWER NO. 17 (a): N/A.

INTERROGATORY NO. 18: What were the circumstances surrounding the termination of Ms. Dryden's employment on your congressional staff?

ANSWER NO. 18: Ms. Dryden was terminated on April 30, 1988. She had originally been hired part-time, for 20 hours per week while she worked full-time for the airlines. She told me that she wanted to give up her airline job, work as a full time legislative assistant for my office, and be compensated at $30,000. She had earned this sum as a result of the combination of both jobs. We did not have a legislative assistant position available at the time, and could not afford her salary request. (J. Bartell memo attached as Exhibit 5 .)

INTERROGATORY NO. 19: Have you apologized to Ms. Dryden for any of your behavior that she may have perceived as inappropriate?

ANSWER NO. 19: Yes, as explained in interrogatory no. 10.

INTERROGATORY NO. 19 (b): In what manner?

ANSWER NO. 19 (b): N/A.

INTERROGATORY NO. 20: Did Ms. Dryden ever perform campaign-related work for you before, during, or after her initial hiring as an employee on your clerk-hire staff?

ANSWER NO. 20: Yes.

INTERROGATORY NO. 20 (a): If so, did you direct that she perform this activity?

ANSWER NO. 20 (a): Yes.

INTERROGATORY NO. 20 (b): During what time period(s) did she perform this work?

ANSWER NO. 20 (b): She was hired by my campaign, in the spring of 1987, for approximately three weeks.

INTERROGATORY NO. 20 (c): Where did she perform this work?

ANSWER NO. 20 (c): During this period of time, she occasionally performed her duties from my congressional office.

INTERROGATORY NO. 21: Detail the nature of the campaign-related work performed by Ms. Dryden.

ANSWER NO. 21: Ms. Dryden occasionally performed campaign-related telephone calls for me. Although, I frequently asked her to place the call on my behalf, I personally spoke with many of those she contacted. In order for me to be able to pick up the phone, I directed her to make the calls in the anteroom off of my

office, from a phone on top of the desk. Later, when she had been placed on clerk-hire, she may have been requested to make further calls. However, it is my understanding that she was asked to place these calls outside of the office.

INTERROGATORY NO. 21 (a): Who, if anyone, supervised the campaign-related work performed by Ms. Dryden?

ANSWER NO. 21 (a): I supervised Ms. Dryden during the period of time discussed in Interrogatory No. 2.

INTERROGATORY NO. 21 (b): Name other office or campaign staffers, if any, that may have observed the campaign work performed by Ms. Dryden.

ANSWER NO. 21 (b): I do not recall if anyone else witnessed her making the calls I directed her to make.

INTERROGATORY NO. 22: To your knowledge, did Ms. Dryden use House (i.e., official) resources (e.g., phones, copiers, etc.) to perform campaign-related activities either inside or outside your congressional office?

ANSWER NO. 22: Yes.

INTERROGATORY NO. 22 (a): If so, what resources did she use?

ANSWER NO. 22 (a): As stated in Interrogatory No. 21, Ms. Dryden used the telephone in my office.

INTERROGATORY NO. 22 (b): Please identify any individuals, including yourself, who may have witnessed her using House resources.

ANSWER NO. 22 (b): As stated in Interrogatory No. 21, as far as I am aware, no one but myself witnessed her making these calls.

INTERROGATORY NO. 23: Did either Ms. Bertussi, Ms. Dryden, or any other individual on your clerk-hire staff receive instructions from you, directly or indirectly, to perform campaign-related work in your Washington, D.C., congressional office?

ANSWER NO. 23: I never instructed my staff, other than Ms. Dryden, to perform campaign-related work in the congressional office. However, on occasion, I did ask them if they would help with fundraisers, outside of the office.

INTERROGATORY NO. 23 (a): If so, state the name(s) of the person(s) who received such instructions, and detail the nature of the duties they were asked to perform.

ANSWER NO. 23 (a): To the best of my recollection, Jay Hansen and Louisa Pienta volunteered to assist me with fundraising calls.

INTERROGATORY NO. 23 (b): To your knowledge, did they actually perform these duties?

ANSWER NO. 23 (b): I do not know whether they actually performed those duties, but it is my understanding that those who made the calls made them during non-office hours.

INTERROGATORY NO. 24: Did you ever request any member of your congressional staff to attend or assist any of your campaign activities?

ANSWER NO. 24: Yes.

INTERROGATORY NO. 24 (a): If so, specify the events that were requested or required to attend.

ANSWER NO. 24 (a): I consistently asked my office to attend fundraising events held during non-office hours.

INTERROGATORY NO. 25: To your knowledge, did any individual on your congressional office staff request other staff members to perform campaign-related work without your approval or direction?

ANSWER NO. 25: Yes.

INTERROGATORY NO. 25 (a): If so, which higher level staffers made the requests, and to which lower level employees?

ANSWER NO. 25 (a): It is my understanding that Louis Pienta, my Administrative Assistant, requested that Jay Hansen, Ms. Bertussi, Ms. Dryden, Ms. Debbie Vitus and Ms. Mary Malaney

assist with follow-up calls to Political Action Committees. (Statement of Louisa Pienta attached as Exhibit 6.) The majority of our fundraising, however, is accomplished by an outside fundraising firm, specifically hired for that purpose. Any calls the staff made were, therefore, incidental.

INTERROGATORY NO. 25 (b): What activities were the lower level staffers requested to perform?

ANSWER NO. 25 (b): The staffers were asked to perform telephone calls.

INTERROGATORY NO. 26: Which, if any, of your congressional office staff volunteered to perform campaign-related work for you?

ANSWER NO. 26: It is my understanding that Ms. Bertussi, Mr. Hansen, and Ms. Dryden volunteered. (Id.)

INTERROGATORY NO. 26 (a): What work did they volunteer to perform?

ANSWER NO. 26 (a): As stated in Interrogatory No. 25, they volunteered to make phone calls.

JIM BATES
49th DISTRICT, CALIFORNIA

Congress of the United States
House of Representatives
Washington, D.C. 20515

PLEASE REPLY TO
[illegible]

September 22, 1988

Dear Roll Call:

My name is Jay Hansen and I have worked for Congressman Jim Bates since January 1985.

With respect to the question, did you ever "...wrap your legs around a staffer's extended leg swaying back and forth - humping her - while asking about a specific legislative project?" I was present during this incident and would like to respond.

As I recall quite vividly, Congressman Bates entered the room and approached Dorena Bertussi who was sitting at her desk. I sat at my desk, which is no further than four feet away. I did not see the Congressman "wrap his leg around a staffer" nor was he "swaying" or "humping".

What I did see was Congressman Jim Bates approach Dorena, who was seated. The Congressman was close, to the extent that his leg touched Dorena's knee, while discussing a legislative project. This lasted almost 5 seconds. In my opinion, it was not a sexual incident.

In addition, during my 4 years of working with Jim Bates, I have notice that his "personal space" is much smaller than other individuals, including my own. We have discussed many issues "face to face", yet in no time did I ever view it as sexual.

Finally, I feel the question is loaded. "Humping" for instance is a very suggestive word. I know what it means. I also know that this is not what I saw.

Sincerely,

Jay Hansen

Jay Hansen
Legislative Director

EXHIBIT
1

WASH POST OCT. 6, 1988 A1, col. 2

THE WASHINGT

California Rep. Bates Denies Harassing Female Employees

Associated Press

SAN DIEGO, Oct. 5—Rep. Jim Bates (D-Calif.) has apologized for what he called kidding and flirting with the women on his staff, but denied accusations that his behavior constituted sexual harassment.

"I think I've kidded around and flirted around," Bates said Tuesday. "I don't know if you could call [them] advances. I think it was inappropriate. From now on, my behavior is going to be much more appropriate."

The weekly Capitol Hill newspaper Roll Call recently quoted women on Bates' staff as saying he mistreated them by making suggestive comments with sexual overtones and by hugging them. Roll Call said the female staff members' names were withheld at their request.

Bates, 47, has repeatedly denied specific incidents mentioned in the story, including an allegation that he wrapped his leg around a female worker's leg and swayed back and forth while asking about a legislative project. But he said he regretted any actions that may have offended those who worked for him or have embarrassed his wife and family.

"In today's workplace, things can be misconstrued, and I think it's not proper for a public official to be in a position where his conduct can be even misunderstood," Bates said.

EXHIBIT 2

CHULA VISTA STAR-News September 29, 1988 A 1

Weekly Paper

A-1

Bates denies charges of sexual harassment

By Bradley J. Fikes
City Editor

Rocked by allegations that he sexually harassed and abused staff members, Congressman Jim Bates (D-San Diego) said he apologizes to anyone who feels wronged, but denied any illicit motives or acts.

Bates was the subject of an article published Monday in *Roll Call*, a weekly Capitol Hill newspaper. In it, 20 current and former members of Bates' Washington staff complained of being cruelly treated, pressured to work on political campaigns and, in the case of female employees, subjected to sexual harassment. Their names were not revealed, the article said.

Please see Bates: A-5

EXHIBIT 3

Continued from page A-1

because they feared retaliation.

"I'm the one being harassed," replied Bates, characterizing the article as consisting of "wild, unsubstantiated charges," made by anonymous sources.

Bates did not categorically refute the specific harassment acts he was alleged to have committed. But he said whether an incident constituted harassment or was innocent depended upon the context in which it took place, and that the incidents "are not being placed in context".

"If any of (the staffers) misconstrued my intentions, then I apologize," Bates said.

Not all the charges involve sexual harassment. Many of those interviewed said Bates flies into rages with slight provocations and shows little consideration for his employees.

Bates admitted to driving his staff and being a demanding boss.

"I'm hard to work for. Everyone knows that," he said.

The third-term congressman said he never pressured his congressional employees to help his political activities, stating that he hired separate organizations for his governmental and political offices.

But the *Roll Call* reporter who wrote the story, Shannon Bradley, said in a Tuesday telephone interview that she carefully investigated the charges over several months, cross-checking stories with different sources to make sure of her facts.

Bradley said she learned of the allegations from friends on Capitol Hill, who referred her to former and current Bates workers.

The article's purpose, she said, was to show the plight of congressional aides, who fear to report sexual harassment because they would suffer retaliation from other politicians.

The article cites a study by the Merit Systems Protection Board, concluding that 42 percent of women working in the federal government said they had been sexually harassed. But only 5 percent took any formal action against the culprits, and there is no record of any charge ever being brought against a member of Congress.

Nearly all the women interviewed said Bates made daily requests for hugs so he would "have more energy" and "feel better."

"When the women embraced him, they said he often patted their behinds and thanked him for being good," the article said.

A former employee said Bates embarassed her by staring at her breasts in front of a male constituent and commenting, "Yes, they do look good, don't they."

Another former staffer said Bates told her she had "pretty lips" and then asked if she would have sex with him if they were stranded on a desert island. The woman said "No".

Bates said he often hugged such people as constituents, and didn't see anything wrong with it.

"George Stevens said I don't hug people enough," the congressman said, referring to an aide of his in the College Grove office in San Diego office.

At least one former Bates staffer, Jackie Main, denied the charges, stating that during her work for him, from 1978 to 1985, she never saw any sign of sexual harassment.

"Yes, he has a temper," Main admitted, but said Bates drives himself as hard as his employees.

Main said she sympathized with the aides to a certain extent, because working conditions in Washington congressional offices are "terrible," but that the situation was a general phenomenon.

"I find the timing of the article suspicious," Main said, noting there is less than six weeks before the Nov. 8 general election. Bates is opposed by Libertarian Pat Wright and Republican Rob Butterfield.

"The article is mine," Bradley said, adding that she knew nothing of Butterfield's campaign before calling him for the story. She added that the Republican underdog didn't seem to be have a serious challenge to Bates.

Corrorborating that account, Butterfield said his campaign has taken on new life with the allegations, stating that the reports of mistreatment and sexual harassment were "an open secret" in the political community.

Butterfield said he would ask the House Ethics Committee to investigate the mistreatment reports. He is "actively considering" asking the Federal Elections Commission to investigate reports that Bates had staffers call political action committees during office hours for a recent fundraiser and otherwise used government employees for election purposes.

SAN DIEGO UNION, Wednesday, October 3, 1990, A-3

Bates offers apology but denies harassment

By Pat Flynn
Staff Writer

San Diego Rep. Jim Bates yesterday apologized for "kidding and flirting" with women on his staff.

But Bates, a Democrat who represents the 44th Congressional District, said yesterday that he does not believe he is guilty of sexual harassment.

An article last week in the Washington, D.C., weekly newspaper *Roll Call* quoted anonymous former and current staff members as saying that Bates had sexually and verbally harassed his employees.

"But in today's workplace things can be misconstrued, and I think it's not proper for a public official to be in a position where his conduct can be even misunderstood," Bates said. "I just think it is a higher standard now, and certainly I am sensitized to that."

Among the allegations in the story were that Bates approached a seated staff member and "wrapped his legs

See Bates on Page B-3

EXHIBIT 4

SAN DIEGO UNION, Wednesday, October 5, 1988, B-1 (continued from B-1)

Bates: Democrat denies harassment

Continued from B-1

around her extended leg, began to sway back and forth, grinning, while he inquired about a specific legislative project."

The story said that Bates made daily requests for hugs from female staff members.

Bates yesterday repeated earlier denials of most of the specific incidents mentioned in the story. The allegation that he wrapped his his legs around the employee's leg "is totally false," he said.

"Different people are different," Bates said. "You're in a workplace and you know that some women kind of kid around and others are very strait-laced and you can say something to one person that can be taken negatively ...

"I think the question is, if enough people, even though anonymously, have raised this and have misinterpreted, it's time to make sure it doesn't happen anymore," Bates said.

"I lived on the rough side of the street, but even there you have to learn to be a gentleman," Bates said. "I think I just have to learn to be more aware."

Bates also said he was concerned about the embarrassment the charges may have brought his wife and daughter.

"I'm more concerned about them than myself," he said. "I sort of know that in this game, if you can't take the heat, get out of the kitchen."

The allegations of harassment have breathed new life into the moribund campaign of Rob Butterfield, the Republican challenger seeking to unseat three-term incumbent Bates in the heavily Democratic district.

The National Republican Congressional Committee, which previously had not offered any financial assistance to the Butterfield campaign, has now taken an active role.

The GOP campaign committee has ordered and agreed to pay for a two-page Butterfield advertisement that was scheduled to run today in the *The San Diego Union* and *The Tribune*, reprinting the *The Roll Call* article with the most embarrassing passages blown up in large type.

Gerry Wilson, marketing director for the newspapers, said the ad was withheld from today's editions pending an opinion from the papers' attorneys on the legal ramifications of printing it.

Although the space for the ad had been reserved, Wilson said company officials did not see the proposed wording until late yesterday afternoon.

The ad, which will cost the committee more than $18,000 to run in both newspapers, could run as early as tomorrow if it receives legal approval, Wilson said.

Butterfield, meanwhile, said yesterday that Bates' apology is a campaign tactic.

"His strategy must be to admit his wrongdoing and try to evoke as much sympathy as possible from the district," Butterfield said. "He's admitted that he's sexually harassed his staff ... I think he should resign. Anybody else in private business or elsewhere in government would lose their job."

The 44th District includes downtown and southern San Diego, as well as part of Chula Vista and all of National City and Lemon Grove.

Rep. Jim Bates
Offers apology

File Photo

April 5, 1988

TO: Karen Dryden
FROM: Jim Bartell

When I was in D.C. last month, we discussed the need to delete your position due to budgetary constraints. I indicated I would keep you on the payroll through March and April and advise you on a month-to-month basis.

Regretfully, I must notify you that your position will be deleted at the end of April. Therefore, your last day on the payroll will be April 30, 1988.

You have been an outstanding part-time employee and I wish we could have worked something out on a full-time basis.

The Congressman, Louisa, Jay and I will work with you during the next few weeks to make the transition as smooth as possible.

September 23, 1988

STATEMENT BY

LOUISA PIENTA

In response to the allegation that I distributed Political Action Committee lists to the staff asking them to make 25 calls a day before your fundraiser, to be held March 2, 1988.

I asked for volunteers of the following persons who were on staff in February, 1988. The following persons were asked if they could volunteer to help make call-backs in the last week of February 1988.

Jay Hansen (volunteer)
Karen Evans Dryden (volunteer)
Dorena Bertussi (volunteer)
Mary Malaney (no volunteer)
Debbie Vitus (no volunteer)

The three listed employees told me they would help. I stressed that they should make the calls on their own time, and not in this office. They acknowledged that they understood, but they wanted to help. I gave them each three pages.

I was told by Dorena Bertussi that she had made some contact and that they would help.

I had engaged a private firm and a person by the name of: Andrea Parisi, Capital Events to make and receive calls.

No response from Jay Hansen or Karen Dryden regarding the lists that they had asked for. I did not pressure them for a response.

I was told by Mr. Jim Bartell, Chief of Staff that I should ask for volunteers to assist in the call-backs, but it would be strictly volunteer.

EXHIBIT 6

CAPITAL EVENTS
"Our objective is the success of your event"

April 21, 1988

Ms. Louisa Pienta
Congressman Jim Bates
1404 Longworth HOB
Washington, DC 20515

Dear Louisa:

Enclosed is the bill from the NDC for the March 2nd fundraiser. The invoice breaks out as:

15 guests @ $4.50 each	67.50
1 waiter	20.00
15% gratuity	10.13
8% tax	5.40
TOTAL DUE	103.03

The check should be made out to the National Democratic Club. An envelope is enclosed.

Thank you for giving me the opportunity to work with you on the event. I hope I can be of assistance to you in the future.

Kindest regards,

Andrea

Andrea Parisi

Congress of the United States
House of Representatives
Washington, D.C. 20515

JIM BATES
[illegible] DISTRICT, CALIFORNIA

POLICY REGARDING SEXUAL HARASSMENT

Sexual harassment is conduct that can be defined as unwelcome sexual advances, requests for sexual favors, and other physical or verbal conduct when:

1. Submission to or rejection of such conduct by an individual is used as a basis for employment decisions affecting such individuals; or,

2. Submission to such conduct is made, either explicitly or implicitly, a term or condition of an individual's employment; or,

3. The conduct has the effect of substantially interfering with an individual's work performance or creating an intimidating, hostile or offensive work enviornment.

More specific examples of sexual harassment include blatantly obvious acts such as: soliciting sexual favors in exchange for getting a job, keeping one's job, obtaining a promotion, or obtaining a salary increase; making inquiries into an individuals sex life, or making lewd comments about an individual, etc.

More examples of sexual harassment include seemingly innocent acts such as telling sexual jokes, if done on a continuing basis, and touching and/or physical interference, if done on a continuing basis, if this conduct creates an intimidating or offensive work enviornment.

As can be seen from the above examples, sexual harassment includes far more than the concept of soliciting sexual favors in exchange for a promotion or salary increase. It includes any activity which is intended to, or has the effect of either: (1) interfering with an individual's job performance; or, (2) creating an intimidating, hostile, or offensive work enviornment. It applies equally to the conduct of both management and non-management personnel.

EXHIBIT 7

If you believe that you are, or have been, the victim of sexual harassment, or that any other member of the staff is, or has been, the victim of sexual harassment, you are to immediately contact, either in person or by telephone the Chief of Staff or the Office Manager directly to discuss the situation. One of these individuals will personally conduct a confidental and thorough investigation. After such investigation has been completed, a determination will be made, and if necessary, disciplinary action will be taken, up to and including termination.

This office also recognizes that malicious allegations of sexual harassment could have a serious effect on innocent individuals. For that reason, while we do not want to discourage you from bringing to our attention any concern which you might have, malicious allegations of sexual harassment will not be condoned any more than actual acts of sexual harassment wil be condoned.

I have received a copy of the above sexual harassment policy.

date 4/18/89
date 4-18-89
date 4-18
date 4-18-89
date 4-18-89
date 4-18-89
date 4/18/89
date 4/18/89
date 4/19/89
date 4/20/89
4-18-89

I have read and understand the sexual harassment policy above.

date 7/86.
date 8-1-89
date
date 4/18/89
date 4/18/89
date 4/18/89
date 4/21-89
date
4-18-89

STATEMENT OF CONGRESSMAN JIM BATES

Less than two months before the 1988 Congressional elections, Roll Call magazine printed a story accusing me of offensive behavior toward female staffmembers. The story relied upon allegations of anonymous sources, accusing me of a wide range of inappropriate behavior. Not surprisingly, the unsubstantiated allegations became the focus of a campaign that prior to the article had been largely uneventful.

The accusations compelled me to contemplate my behavior toward staffmembers, as even the most wild accusations are generally founded in a grain of truth. In light of this contemplation I realized that it was possible that some of my behavior could have been misconstrued, particularly as I have always worked closely with my staff -- male and female.

I have taken a number of steps to correct any misperceptions and to improve my staff relationship. First, I publicly apologized for any "kidding and flirting" which may have been miscontrued. Secondly, I have learned to distance myself from my staff, and have refrained from forming a too personal relationship with any of them, so that the line between employer and employee is more clear drawn. Third, I have sought advice and counsel from professionals to assist me in implementing these changes. Finally, I have instituted a written office policy in the event that any of my staff feel that they are the victim of sexual harassment by me or anyone on my staff.

I and my family have suffered immensely from these accusations. The allegations and their possible origin are never far from my mind. I have therefore pledged to myself that I will continue my ongoing effort to improve my personal behavior so that my actions, no matter how innocent, will never again be so misconstrued. -

Aug 2, 1989

Congressman Jim Bates, (Dated)
U.S. House of Representatives